

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

JONATHAN BARAHONA and HECTOR  
HERNANDEZ,

Plaintiffs,

v.

PARADISE TREE SERVICE & LANDSCAPE  
CORP. and WILLIAM NIETO,

Defendants.

Case No. 21-cv-05400 (GRB)(LGD)

**JOINT PRE-TRIAL ORDER**

The parties having conferred among themselves and with the Court pursuant to Federal Rule of Civil Procedure 16, the following statements, directions and agreements are adopted as the Pretrial Order herein.

**1. Trial Counsel**

*For Plaintiffs JONATHAN BARAHONA and HECTOR HERNANDEZ*

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*For Defendant WILLIAM NIETO (Pro Se)*

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*For Defendant PARADISE TREE SERVICE & LANDSCAPING CORP.*

None

**2. The basis for subject matter jurisdiction;**

a. Plaintiffs' Position

This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367, since such claims are so related in this action to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution. Defendants assert that the plaintiffs have not met the income threshold under the FLSA.

b. Defendant William Nieto's Position

**3. The claims and defenses that remain to be tried;**

a. Plaintiffs' Position as to Claims Remaining to be Tried

- i. FLSA Overtime
- ii. NYLL Overtime
- iii. Failure to Issue Wage Statements (NYLL 195(3)).
- iv. Failure to Issue Hiring Notices (NYLL 195(1)).

b. Defendant William Nieto's Position:

**4. Whether the case is to be tried with or without a jury, and the number of trial days needed.**

- a. Plaintiffs' Position: The case is to be tried without a jury. The Plaintiffs anticipate the trial will last 2 days.
- b. Defendants' William Nieto's Position:

**5. Any stipulations or statement of facts that have been agreed to by all parties.**

None.

**6. All fact and expert witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify, except for good cause shown.**

- a. Plaintiffs:
  - i. Hector Hernandez
  - ii. Jonathan Barahona
  - iii. Jorge Maldonado
- b. Defendants
  - i. William Nieto (In Person)

**7. The deposition testimony to be offered in its case in chief, with any cross designations and objections by any other party.**

- a. Plaintiffs: Testimony of William Nieto (Impeachment Only)
- b. Defendant William Nieto:

**8. The exhibits to be offered in evidence including, where possible, anticipated impeachment and rebuttal exhibits, and objections thereto. Questions of authenticity, best evidence, chain of custody, and related grounds should be resolved between the parties before trial. Only the exhibits listed will be received in evidence except for good cause shown.**

- a. Offered by Plaintiffs

| <b>Trial Exhibit #</b> | <b>Description</b>   | <b>Defendants' Objections</b> |
|------------------------|--|-------------------------------|
| 1                      | Plaintiffs' Complaint (ECF No 1)                                       |                               |
| 2                      | Defendants' Answer (Verified by William Nieto) dated November 10, 2021 |                               |
| 3                      | Affidavit of William Nieto dated July 14, 2022                         |                               |
| 4                      | Affidavit of William Nieto dated April 14, 2022                        |                               |
| 5                      | Deposition transcript of William Nieto                                 |                               |

**9. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge. The statement shall not identify which parties have or have not consented.**

All parties do not consent to trial of the case by a magistrate judge.

**SO ORDERED:**

Dated: Central Islip, New York  
September \_\_, 2024